APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,490	03/08/2001	Christopher Keith	IVEN125530	4750

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EXAMINER
FELTEN, DANIEL S

ART UNIT	PAPER NUMBER
3693	

DATE MAILED: 10/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *10 July 2006*.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-15* is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-15* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a) ☐ All   b) ☐ Some * c) ☐ None of:

         1. ☐ Certified copies of the priority documents have been received.

         2. ☐ Certified copies of the priority documents have been received in Application No. _____.

         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   Receipt of the Amendment filed July 10, 2006 amending claims 1, 13 and 14 is

acknowledged. Claims 1-15 remain pending in the application and are presented to be examined

by their merits.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112: ·

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

3.   Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention. What is the term "premium" mean? Is it a fee added to the transaction or a price

the buyer is willing to spend for a particular price of the order? What exactly do you mean to

"automate" determining premiums. How is this done? What do you mean that the premiums are

determined *relative to* a current market price? Shouldn't there be one premium (price or fee), for

instant current market price?

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

5.   The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459

(1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating obviousness
        or nonobviousness.

6.   Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jain et al

(US 6,343,278) in view of Lupien et al (US 5,689,652)

Re claim 1, a method of facilitating trading of orders in a batch process, comprising:

Automatically determining premiums offered or demanded for the orders in a batch at a

particular price (see Jain, Abstract; col. 8, ll. 55+), and

Automatically pairing the orders in accordance with their respective premiums(see Jain,

col. 1, ll. 39-46; and col. 2, ll. 4-13; and col. 9, ll. 20+).

Re claim 3, wherein determining the premiums occurs when the orders in the batch are

posted to a batch process (see Jain, col. 9, ll. 21-37).

Re claim 4, Wherein automatically pairing includes giving preference to orders offering

premiums, the preference being proportional to the size of the premium (see Jain, col. 9, ll 32-

41).

Re claim 5, Wherein automatically pairing   includes   giving preference to orders

demanding premiums, the preference being inversely proportional to the size of the premium

(see Jain, col. col. 9, ll. 42-49).

Re claim 6, automatically setting the price for each pairing based on the premiums associated with the orders in the pairing (see Jain, col. 9, ll. 66 to col. 10, ll. 22).

Re claim 7, wherein each pairing includes a buy order and a sell order, and automatically setting sets the pairing price to a market price when both orders are offering a premium (see Jain, col. 8, ll. 55 to col. 9, ll. 19)

Re claim 8, wherein each pair includes a buy order and a sell order and the buy order offer premium is at least the sell order demand premium and automatically setting sets the pairing price to a market price plus the sell order premium (see Jain, col. 9, ll. 21+)

Re claim 9, wherein each pairing includes a buy order and a sell order and the sell order offer premium is at least the buy order demand premium, and automatically setting sets the pairing price a market price less the buy order premium (see Jain, col. 9, ll. 66 to col. 10, ll. 12).

Re claim 10, wherein each pairing includes a buy order and a sell order, and automatically setting marks the pairing as unmatchable when the premiums indicate lack of a mutually acceptable price

Re claim 11, wherein the premiums indicate lack of mutually acceptable price when the buy order demand premium is greater than the sell order offer premium (ii) the sell order is greater than the buy order offer premium ore (iii) the buy order and the sell order are both demanding premiums (see Jain, col. 10, ll. 47+)

Re claim 12, further comprising automatically adjusting the price for a pairing when one of the orders in the pairing is also participating in the unmatchable pairing (see Jain, col. 10, ll. 47+)

Re claim 13, automatically converting liquidity curves respectfully associated with the

orders into premiums offered or demanded for orders and (see Jain, col. 8, ll. 55+)

Re claims 1, 2, 13, 14 and 15:

Jain fails to disclose wherein the premiums are determined relative to *a current market*

price for the orders in the batch. Lupien discloses orders in a batch process in accordance with

respective liquidity curves associated with the batch (see Lupien, see figs. Abstract, col. 3, ll. 43

to col. 4, ll. 40). Jain would have recognized the fact traders will pay a premium (default price or

adjusted price) relative to the market price of a large quantity of stock (or group or batch of

stock) in order to execute the trade (see Jain, column 15, lines 33-63). Lupien thus discloses a

process that may be used in accordance with respective liquidity curves associated with the batch

(see Lupien, see figs. Abstract, col. 3, ll. 43 to col. 4, ll. 40). It would have been obvious to

employ into Jain the batch process of Lupien to allow traders to readily enter combinations of

orders and trading strategies, as well as give users a degree of control and flexibility by

providing greater market liquidity.

Jain fails to disclose wherein determining premiums occurs in accordance with respective

liquidity curves associated with the orders in the batch. Lupien discloses trading orders in a

batch process in accordance with respective liquidity curves associated with the batch (see

Lupien, see figs. Abstract, col. 3, ll. 43 to col. 4, ll. 40). It is well known that a large quantity of

stock that is disproportional to the stock's average trading volume, the buyers or seller will pay a

premium to the market price of the stock in order to execute the trade. One of ordinary skill in

the art at the time of Jain would have recognized the notoriously old and well known batch order

process and have been motivated to integrate liquidity curves in association with a batch (or

group) of orders to allow traders to readily enter combinations of orders and trading strategies,

as well as give users a degree of control and flexibility by providing greater market liquidity.

Thus such a feature would provide greater user satisfaction and thus constitute an obvious

expedient well within the ordinary skill in the art.

Conclusion

7.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Daniel S. Felten whose telephone number is (571) 272-6742.

The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's email is

Daniel.Felten@uspto.gov. The fax phone number for the organization where this application or

proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Daniel S Felten
Examiner
Art Unit 3693

DSF
10/13/2006

ELLA COLBERT
PRIMARY EXAMINER